

House Bill 274 (AS PASSED HOUSE AND SENATE)

By: Representatives Lindsey of the 54th and Kaiser of the 59th

A BILL TO BE ENTITLED
AN ACT

To amend Article 1 of Chapter 17 of Title 45 of the Official Code of Georgia Annotated, relating to notaries public, so as to provide for additional qualifications of a notary; to change certain provisions relating to the notary's application; to change certain provisions relating to a notary's obligation to advise the clerk of superior court of certain changes in personal information; to provide for penalties; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 1 of Chapter 17 of Title 45 of the Official Code of Georgia Annotated, relating to notaries public, is amended by revising Code Section 45-17-2, relating to qualifications of notaries, as follows:

"45-17-2.

(a) Any individual applying for appointment to be a notary public ~~must be~~ shall:

(1) Be at ~~At~~ least 18 years old;

(2) Be a United States citizen or be a legal resident of the United States;

(3) Be a legal ~~A~~ resident of the county from which such individual is appointed; ~~and~~

(4) Have, and provide at the time of the application, the applicant's operating telephone number; and

~~(4)(5) Be able~~ Able to read and write the English language.

(b) The ~~qualifications of paragraphs (2) and (3)~~ qualification of paragraph (3) of subsection (a) of this Code section shall not apply to any nonresident individual applying for appointment as a notary public under the provisions of Code Section 45-17-7."

SECTION 2.

Said article is further amended by revising Code Section 45-17-2.1, relating to the notary's application, as follows:

"(a)~~(1)~~ Any individual desiring to be a notary public shall submit application to the clerk of superior court of the county in which the individual resides or, when applying under the provisions of Code Section 45-17-7, to the clerk of superior court of the county in which the individual works or has a business. Except for applicants applying under the provisions of Code Section 45-17-7, the applicant shall submit proof to the clerk of superior court that he or she resides in the county in which the applicant is applying. Such proof shall consist of one of the following:

(A) A valid Georgia driver's license;

(B) A valid United States passport;

(C) A valid voter identification card; or

(D) Such other valid identification by a local or state government or by the United States government.

(2) The applicant shall sign and swear or affirm as outlined in paragraph (2) of subsection (b) of this Code section to the truthfulness of the application which shall state:

~~(1)~~(A) That the applicant resides or works or has a business in the county of application and the address of the residence or business. The applicant shall use his or her residential address for purposes of the application and may only use a business address for the application if the applicant is applying pursuant to the provisions of Code Section 45-17-7;

~~(2)~~(B) That the applicant is at least 18 years old;

~~(3)~~(C) That the applicant can read and write the English language;

(D) That the applicant has an operating telephone number;

~~(4)~~(E) All denials, revocations, suspensions, restrictions, or resignations of a notary commission held by the applicant; and

~~(5)~~(F) All criminal convictions of the applicant, including any plea of nolo contendere, except minor traffic violations.

(b) In addition to the application required in subsection (a) of this Code section, every applicant for initial appointment as a notary public shall also submit the following endorsement and declaration to the clerk of superior court of the county in which the individual makes application:

(1) Endorsements from two persons who are not relatives of the applicant, who are at least 18 years old, ~~and~~ who reside in the county in which the individual makes application, and who have known the applicant for at least one month. The endorsement shall be in the following form:

I, _____ (name of endorser), being 18 years of age or older and a legal resident of _____ (name of county), believe the applicant for a notary public commission, _____ (name of applicant), who is not related to myself, to be a

person of integrity, of good moral character, and capable of performing notarial acts.

I have known the applicant for one month or more.

(Signature of endorser)

(Date)

(Address of endorser)

(Telephone number of endorser)

(2) A declaration of applicant which shall have been signed in the presence of a commissioned notary public of this state. The declaration of applicant shall be in the following form:

I, _____ (name of applicant), do solemnly swear or affirm under penalty of perjury that the personal information I have written in this application is true, complete, and correct.

(Signature of applicant)

State of _____

County of _____

On this _____ day of _____, _____, before me appeared, _____, the person who signed the preceding declaration of applicant in my presence and who swore or affirmed that _____ (he/she) understood the document and freely declared it to be truthful.

(Official signature of the notary)
(Official seal of the notary)"

SECTION 3.

Said article is further amended by revising subsection (a) of Code Section 45-17-13, relating to a notary's obligation to advise the clerk of superior court of certain changes in personal information, as follows:

"(a) Every notary public shall notify in writing the appointing clerk of superior court, ~~with~~ and provide a copy of such notice to the Georgia Superior Court Clerks' Cooperative Authority, of any change in the notary's residence or business address, whichever was used for the purpose of appointment, and of any change in the notary's telephone number. The notice shall contain both the old and new addresses and must be received by the clerk of superior court within 30 days of the change."

SECTION 4.

Said article is further amended by revising subsection (b) of Code Section 45-17-20, relating to penalties and prosecution of violations of the article, as follows:

~~"(b) Each clerk of superior court is authorized to recommend to the appropriate prosecuting officers that criminal proceedings be instituted for violations of this article~~ Any person who performs any notarial service without complying with the provisions of this article shall, upon the first or second conviction, be guilty of a misdemeanor and upon a third or subsequent conviction be guilty of a felony, punishable by imprisonment of not less than one year nor more than five years, a fine of up to \$5,000.00, or both."

SECTION 5.

All laws and parts of laws in conflict with this Act are repealed.